

Remarks

Claims 1-45 were initially presented in this application. Claims 2-29 (compound claims) have been canceled. Claims 46-54 (compound claims) are new. Claims 30 – 35 are original. Claims 36 – 45 are withdrawn. In summary claims 1, 30-35 and 46-54 are actively pending, claims 36-45 are withdrawn until rejoinder.

Applicant cancels all the previous compound claims except claim 1. Claim 1 is amended with the same amendment that was not entered by the Examiner, see Advisory Action. The amendment deletes the phrase “or N-oxide.” Other new compound claims, 46-54 are added. The new compound claims all find support from previously submitted claims, specific new claim support is described below. No new matter is added with these claim amendments.

A Restriction Requirement issued on July 31, 2007. Restriction was made among 5 groups drawn to methods of different treatments. In that Office Action it was stated, “Claims 1-31, compound claims, will be examined along with the elected Group.” See Office Action dated 7/31/2008, page 2, item 1. In Applicant’s Reply dated Oct. 1, 2007, Applicant’s elected Group I, claims 32 - 35 drawn to methods of inhibiting TGF β and a specific compound was elected.. The specific compound elected was 4-[2-(6-methyl-pyridin-2-yl)-pyrazolo[1,5-a]pyridin-3-yl]-pyrimidin-2-ylamine, and is recited in original claim 29..

In the Office Action, dated 11/20/2007, rejections were made based upon 35 USC § 112, enablement and written description. The term “n-oxides” was objected to and provisional rejections were made based on the ground of nonstatutory obviousness-type double patenting over the claims of co-pending application No. 10/526653. Applicant replied on 3/18/2008 and overcame the objections. The non-statutory obviousness-type double patenting rejections was overcome with a terminal disclaimer. The enablement rejections were also overcome. See Office Action dated, 7/09/2008, at page 3, item 4, “Applicant’s arguments ... filed 3/18/2008, with respect to the enablement rejection have been fully considered and are persuasive. The rejection of claims 1-11, 14,21, 23-24 and 29-35 as not enabled for using the compounds of formula (I) has been withdrawn.” *Id.* However, Applicant did not overcome objections to the term “n-oxides” used in the claims. See Office Action dated, 7/09/2008, at pages 2 and 3, item

3. When Applicant attempted to file an amendment to delete the term “n-oxides” from the claims, the amendment was rejected because, “the amendment would require additional consideration of non-elected species still present in the claims.”

Applicant now requests further examination. In the previous examination of the elected compound the Examiner cited no art and made no arguments indicating the compound was anticipated or rendered obvious. According to MPEP section 803.02, after election of a single species, if the species is allowable, then the examination of the Markush-type claims will be extended. If prior art is then found that anticipates or renders obvious the Markush-type claims with respect to a nonelected species, the Markush-type claims shall be rejected and claims to the nonelected species held withdrawn from further consideration.” MPEP 803.02, paragraph 6. Since there have been no 35 USC §102 or 103 rejections in the prosecution of these claims, Applicant now files this RCE with the request that the amended pending claims, including all the Markush compound claims, now be fully examined, up to the point that prior art may be found that anticipates or renders obvious the claims. Specific support for the new claims may be found as follows:

Claim 46 finds support from a combination of original claims 1, 2 and 5.

Claim 47 combines claim 46 with original claim 7.

Claim 48 combines claim 47 with original claim 10.

Claim 49 combines claim 48 with original claim 17.

Claim 50 combines claim 49 with original claim 20.

Claim 51 combines claim 50 with original claim 8.

Claim 52 combines claim 51 with original claim 21.

Claim 53 combines claim 52 with original claim 12.

Claim 54 combines claim 52 with original claim 29.

Applicant believes all of the pending claims should now be in condition for allowance.

Applicant requests the fee for filing a Request for Continued Examination and two extensions of time be paid from Deposit Account No. 503145 and reference attorney docket number 223255-121026 US. If there are any additional charges or credits, that should properly be applied in order to continue examination of this application, they should also be paid from the same deposit account.

Respectfully submitted,

Date December 9, 2008

A handwritten signature in dark ink, appearing to read 'Thomas A. Wootton', written over a horizontal line.

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